

13-5a-101. Title.

This chapter is known as the "Unfair Competition Act."

Enacted by Chapter 372, 2004 General Session

13-5a-102. Definitions.

As used in this chapter:

- (1) "Control" means:
 - (a) ownership of more than 5% of the voting shares or ownership interests of an entity;
 - (b) the power to vote more than 5% of the voting shares of an entity; or
 - (c) the ability to influence the management of an entity.
- (2) "Depository institution" is as defined in Section 7-1-103.
- (3) "Malicious cyber activity" means:
 - (a) the unlawful use of computing resources to intimidate or coerce others;
 - (b) accessing a computer without authorization or exceeding authorized access;
 - (c) willfully communicating, delivering, or causing the transmission of a program, information, code, or command without authorization or exceeding authorized access; and
 - (d) intentionally or recklessly:
 - (i) intends to defraud or materially cause damage or disruption to any computing resources or to the owner of any computing resources; or
 - (ii) intends to materially cause damage or disruption to any computing resources indirectly through another party's computing resources.
- (4) (a) Except as provided in Subsection (4)(b), "unfair competition" means an intentional business act or practice that:
 - (i) (A) is unlawful, unfair, or fraudulent; and
 - (B) leads to a material diminution in value of intellectual property; and
 - (ii) is one of the following:
 - (A) malicious cyber activity;
 - (B) infringement of a patent, trademark, or trade name;
 - (C) a software license violation; or
 - (D) predatory hiring practices.
- (b) Notwithstanding Subsection (4)(a), "unfair competition" does not include the departure and hiring of an employee by a competitor.

Amended by Chapter 340, 2011 General Session

13-5a-103. Private action for unfair competition.

- (1) (a) Except as provided in Subsection (2), a person injured by unfair competition may bring a private cause of action against a person who engages in unfair competition.
- (b) In an action under this Subsection (1), a person injured by unfair competition may recover:
 - (i) actual damages;
 - (ii) costs and attorney fees; and

(iii) if the court determines that the circumstances are appropriate, punitive damages.

(2) A person may not bring an action described in Subsection (1) against:

(a) a depository institution; or

(b) an entity that:

(i) controls a depository institution;

(ii) is controlled by an entity that controls a depository institution; or

(iii) is controlled by a depository institution.

Enacted by Chapter 372, 2004 General Session